

United States District Court

for the
Western District of New York

United States of America

v.

Case No. 20-MJ-0680

MARQUIS FRASIER,

Defendants

AMENDED CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief:

On or about May 30, 2020, in the County of Monroe, in the Western District of New York, MARQUIS FRASIER did knowingly and unlawfully commit arson, in violation of Title 18, United States Code, Sections 844(i) and 2 (arson).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.



Complainant's signature

ATF SPECIAL AGENT RYAN J. SZWEJBKA

Printed name and title

Affidavit and Criminal Complaint submitted electronically by email in .pdf format. Oath administered, and contents and signature, attested to me as true and accurate telephonically pursuant to Fed.R.Crim.P. 4.1 and 4(d) on:

Date: July 16, 2021



Judge's signature

City and State: Rochester, New York

HONORABLE MARK W. PEDERSEN
UNITED STATES MAGISTRATE JUDGE

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

20-MJ-0680

MARQUIS FRASIER,

Defendant.

State of New York)
County of Monroe) ss:
City of Rochester)

AFFIDAVIT IN SUPPORT OF AMENDED CRIMINAL COMPLAINT

RYAN J. SZWEJBKA, being duly sworn, deposes and says:

1. I am a Senior Special Agent ("SA") with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, & Explosives ("ATF"), and I am assigned to the Rochester, New York Field Office. Accordingly, I am the kind of Special Agent delineated in Title 18, United States Code, Section 3051.

2. I am a graduate of the Criminal Investigator School and the ATF National Academy, both located at the Federal Law Enforcement Training Center in Glynco, Georgia. I have been employed as an ATF Special Agent for over 18 years. As part of my professional experience, I have participated in state and federal investigations involving the illegal possession of firearms, narcotics, and violations of federal laws to include Titles 18 and 26, United States Code and am familiar with various federal arson laws. Previously, I was

employed by the State of South Carolina as a Probation and Parole Agent for one and one half years. I earned a Bachelor's of Science Degree from the University of South Carolina (USC) in Criminal Justice in 1996. I received my Master's Degree from USC in Criminal Justice in 1999. I have participated in the service of State and Federal search and seizure warrants and have seized or assisted in seizing contraband, including firearms, ammunition, documentary evidence and contraband.

PURPOSE OF AFFIDAVIT

3. This affidavit is submitted in support of a criminal complaint which alleges there is probable cause to believe that on or May 30, 2020, in the City of Rochester, County of Monroe, Western Judicial District of New York, the defendant, MARQUIS FRASIER (hereinafter FRASIER),¹ did violate Title 18, United States Code, 844(i) and 2 (arson).

4. The assertions made herein are based upon my personal knowledge and upon information that I have received from this investigation, including to but not limited to the review of police reports and discussions with other law enforcement agents and officers, all of which are true and correct to the best of my knowledge and belief. Since this affidavit is being submitted for a limited purpose, I have not included each and every fact that I know concerning this investigation. Rather, I have set forth only those facts that relate to the issue

¹ On June 30, 2020, this Court signed the original Criminal Complaint charging the defendant, Marquis Frasier, with a violation of Title 18, United States Code, Section 844(i) and 844(2). (Dkt. #1, 20-MJ-0680). The original Criminal Complaint submitted to the Court contained a repeated misspelling of the defendant's name addressing him as Marquis Fraiser, rather than his correct name Marquis Frasier. This amended Criminal Complaint is being submitted merely to correct the clerical error. There are no new allegations contained herein.

of whether probable cause exists to believe that the defendant committed the above-mentioned offenses. In support thereof, I respectfully state the following:

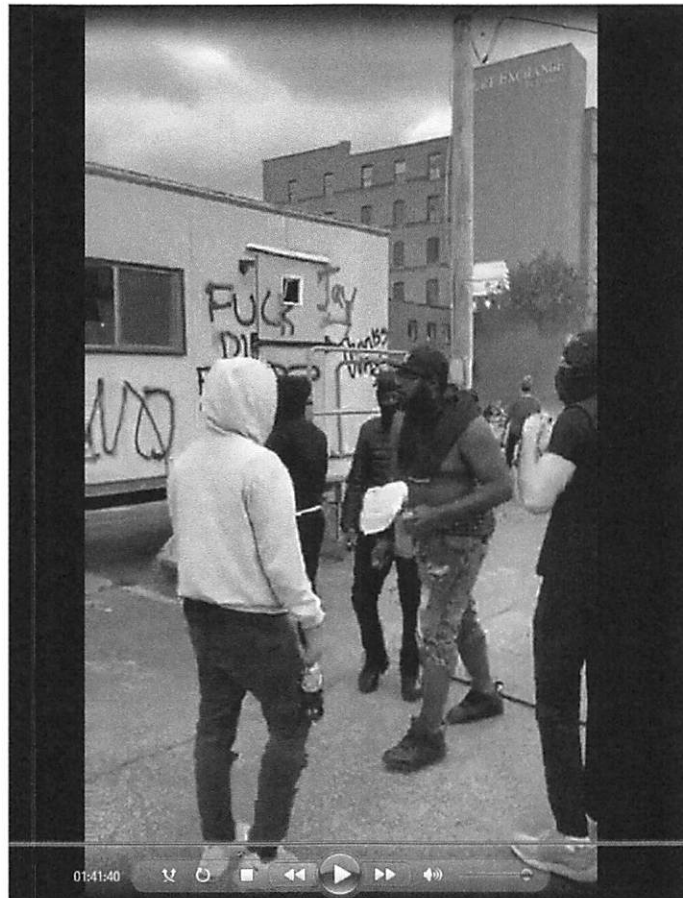
PROBABLE CAUSE

5. On May 30, 2020, protests were scheduled at the Public Safety Building (PSB), 185 Exchange Boulevard, City of Rochester, Western Judicial District of New York, in response to the death of George Floyd in Minneapolis, Minnesota. During the evening, the protests turned violent resulting in damaged property, looting, and fires.

6. At the time of the protests, a 32 foot by 8 foot mobile office made by the Penn Lyon Homes Company with serial #MDS-291649 (hereinafter MOBILE OFFICE) was set on fire. The MOBILE OFFICE was located in the parking lot at the corner of Court Street and Exchange Boulevard, City of Rochester, Western Judicial District of New York. Michels Corporation, 1775 East Shady Lane, Neenah, Wisconsin, had rented the MOBILE OFFICE from ModSpace, 145 Canada Drive, East Syracuse, New York, for a construction project. The MOBILE OFFICE contained work equipment, tools, a printer, camera, and wi-fi device, among other items.

7. Facebook Live video footage posted by an individual with the initials W.G. shows a fire was started inside the MOBILE OFFICE at approximately 1 hour 40 minutes and 50 seconds into the Live video. Specifically, the video shows a box inside the trailer on fire. At approximately 1 hour 41 minutes and 40 seconds into the video, a shirtless black male

with a shirt over his shoulder, wearing cropped jeans, a black hat and black sneakers appears holding a bottle with rag coming from the top. The bottle was later determined to be a Molotov cocktail. See the photograph below. The male then walked up the steps of the trailer and the video pans away. The male was later identified as FRASIER.



8. Additional Facebook video posted by an individual with the initials Q.M. also shows FRASIER with the Molotov cocktail. The video shows FRASIER walk up the steps of the MOBILE OFFICE, throw something inside, and immediately run down the steps. Blue light camera footage shows the events from a distance. At approximately 6:28:10 p.m., FRASIER walked up to the trailer steps, quickly runs back down the steps, and people begin

to scatter from the MOBILE OFFICE. About three to four minutes later, the MOBILE OFFICE began to smoke and by approximately 6:36:30 p.m. flames are visible.

9. On June 22, 2020 at approximately 8:45 a.m., FRASIER arrived at the PSB. Investigators met him in the lobby and when asked what he was doing at the PSB, FRASIER said "I am turning myself in. I was at the riots down here." FRASIER was escorted to an interview room and advised of his Miranda rights. After indicating he understood his rights he agreed to waive them and speak with investigators. During the interview, FRASIER admitted that he was at the PSB when the riots occurred on May 30, 2020. He further admitted to spray painting, smashing out windows of a truck, breaking glass for the back entrance doors of the Court Exchange Building located at 144 Exchange Boulevard, and stealing beverages out of vending machines inside the building. FRASIER also admitted to having a Molotov cocktail that he attempted to light but was unsuccessful. He described the Molotov cocktail as a Cuervo tequila bottle that contained 1/3 tequila and a dish rag. FRASIER told the investigators that he threw the Molotov cocktail inside the back window of the trailer and that there was already a fire inside the trailer when he threw it. Based upon my training and experience, alcohol is an accelerant that when added to an already lit fire will speed up the burning process. Because the glass bottle contained an accelerant and had a wick, it is considered a Molotov cocktail. FRASIER identified himself in several still photographs from the riots including the one below.



10. The MOBILE OFFICE was completely burned along with combustibles located within that were placed inside by rioters including FRASIER. After direct examinations and review of video/photographic evidence, fire investigators concluded the damage to the MOBILE OFFICE was an incendiary, intentionally set fire, set by human hands. The below photograph depicts the damage to the MOBILE OFFICE.



11. Based on information provided to me, the MOBILE OFFICE is the property of the ModSpace, 145 Canada Drive, East Syracuse, New York. ModSpace is a subsidiary of Willscott Corporation and has offices in the United States and Canada. Michels Corporation, a company head quartered in Wisconsin, had rented the MOBILE OFFICE to conduct business in Rochester, New York. Therefore, both companies conduct business in and affecting interstate commerce.

CONCLUSION

12. Based upon the above information, I submit that there is probable cause to believe that on May 30, 2020, in the City of Rochester, County of Monroe, Western Judicial District of New York, the defendant, MARQUIS FRASIER did commit a violation of Title 18, United States Code, 844(i) and 2 (arson).



RYAN J. SZWEJBKA
Special Agent
Bureau of Alcohol, Tobacco, Firearms,
and Explosives

Affidavit and Criminal Complaint submitted electronically by email in .pdf format. Oath administered, and contents and signature, attested to me as true and accurate telephonically pursuant to Fed.R.Crim.P. 4.1 and 4(d) on this 16th day of July 2021.



HON. MARK W. PEDERSEN
United States Magistrate Court Judge